

BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
)
MARIA WITKOWSKI)
)
 v) No. 11-0050
)
NORTHERN ILLINOIS GAS COMPANY)
d/b/a NICOR GAS COMPANY)
)
Complaint as to billing/charges)
in Park Ridge, Illinois.)

Chicago, Illinois

February 15, 2011

Met pursuant to notice at 10:00 a.m.

BEFORE :

MR. JOHN RILEY, Administrative Law Judge.

APPEARANCES :

MS. MARIA WITKOWSKI and
MR. JOSEPH WITKOWSKI
433 South Greenwood Avenue
Park Ridge, Illinois 60068
appeared pro se, telephonically;

1 APPEARANCES: (Continued)

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3 MR. PAUL PADRON
4 1844 Ferry Road, Suite 7W
5 Naperville, Illinois 60563
6 appeared for Respondent.

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18 SULLIVAN REPORTING COMPANY, by
19 Teresann B. Giorgi, CSR

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I N D E X

<u>Witnesses:</u>	<u>Dir.</u>	<u>Crx.</u>	<u>Re-</u> <u>dir.</u>	<u>Re-</u> <u>crx.</u>	<u>By</u> <u>Examiner</u>
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NONE

E X H I B I T S

<u>APPLICANT'S</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
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1 JUDGE RILEY: Pursuant to the direction
2 of the Illinois Commerce Commission, I call
3 Docket 11-0050. This is a complaint by Maria
4 Witkowski versus Northern Illinois Gas Company doing
5 business as Nicor Gas Company, as to billing and
6 charges in Park Ridge, Illinois.

7 And you are Mr. and Mrs. Witkowski, is
8 that correct?

9 MR. WITKOWSKI: Yes.

10 MS. WITKOWSKI: Yes.

11 JUDGE RILEY: And whose name is on the account?

12 MS. WITKOWSKI: Me.

13 JUDGE RILEY: Mrs. Witkowski.

14 And the address we're talking about is
15 433 South Greenwood Avenue in Park Ridge, Illinois?

16 MR. WITKOWSKI: That's correct.

17 JUDGE RILEY: And you're Mr. Padron?

18 MR. PADRON: Yes.

19 JUDGE RILEY: Would you enter an appearance for
20 the record, please.

21 MR. PADRON: Paul Padron, P-a-d-r-o-n, for Nicor
22 Gas, 1844 Ferry Road, Suite 7W, Naperville, Illinois

1 60563. My phone number is 630-388-3660.

2 And with me is Taria Dees from the
3 Customer Relations Department.

4 JUDGE RILEY: Thank you.

5 Going through the complaint it appears
6 there's a particularly serious allegation here, that
7 Nicor had suspected you of having diverted natural
8 gas sometime in 2008?

9 MR. PADRON: That's correct, Judge.

10 JUDGE RILEY: Is that correct, Mrs. Witkowski?

11 MRS. WITKOWSKI: No, nobody is stealing gas.

12 JUDGE RILEY: No, I understand. But Nicor
13 accused you.

14 MRS. WITKOWSKI: Yes, yes. They call us and --
15 you know, they call us, somebody stealing gas, maybe
16 your husband, maybe somebody else, but I don't know.
17 Nobody steal gas. And we have lived there over 20
18 years and never had problem with Gas Company.
19 Sometimes my husband called because it was very
20 hard, maybe two, three times they give us, you know,
21 credit, \$50, something like that.

22 JUDGE RILEY: One thing I was going to ask you

1 to do before we go any further. Can you switch
2 places with Mr. Witkowski because you're going to
3 have to do the speaking, as much as it's your
4 account. And the court reporter, I notice, is
5 having difficulty following.

6 MRS. WITKOWSKI: Oh, I'll change.

7 JUDGE RILEY: So if you'd switch chairs, it
8 might be easier for her.

9 So it's your position --

10 MRS. WITKOWSKI: Like I said, I never have
11 problem with Gas Company. Over 20 years we live
12 there. We pay on time. You know, they call us,
13 they looking during one year and we paid less than
14 before, but 2008, I think, we both knew a mistake.
15 And we put between 7:00 a.m. and 7:00 p.m., because
16 we are not home, 6 days. Because after work we went
17 to my son, you know, home, because they have 3
18 children I take care and always back home 7:00, 7:15
19 and the temperature was 64. And we put plastic on
20 the window and we have fireplace. Sometimes, you
21 know --

22 MR. WITKOWSKI: May I explain --

1 MRS. WITKOWSKI: Yeah.

2 MR. WITKOWSKI: -- because, you know, she have
3 problem with --

4 JUDGE RILEY: Please, proceed.

5 MR. WITKOWSKI: I complaint with the Gas Company
6 from 2004, because the payments always too high. I
7 ask my neighbor, I check the meters. One time I
8 talked to gentleman named Scott, he says, We'll
9 replace the meter. Okay. A couple days later the
10 Company come in and replace the meter. Okay. You
11 see, I make a big mistake why I don't take a camera
12 and make the picture.

13 They take the old meter. They go to
14 the truck. They put the spray paint -- they sprayed
15 the paint and put the meter back. I start arguing
16 with this gentleman. He says, It's not your
17 business. This is Company business. Shut up.
18 Okay.

19 Not long ago the Company send me the
20 letter that I owe 1400. I call the Company. How
21 come we owe 1400? They says because they make some
22 mistake. I said, What kind of mistake you make?

1 Oh, mistake, we give you some problem. Every
2 week -- or every month from 2008, they give us extra
3 2 or 300 bucks. It come to 1400.

4 But I talked to lady named Kathy. She
5 says, Because you steal the gas. I said, How come I
6 steal the gas? Well, the gentleman -- we know you
7 steal the gas and they shut up.

8 Okay. I called back. I talked to a
9 guy Larry. Okay. I have everything right here
10 because I put the names (indicating). Larry says,
11 Well, you steal -- first he says, Well, we'll have
12 to record your -- our conversation, like usually
13 Company do. I says, Mr. Larry, hold on. I want to
14 record, too, because whatever you record and me, we
15 have to have proof if we go to court. He said, "F,"
16 shut up. And disconnect.

17 A minute later I called to Amy. This
18 girl explained me everything. She said, I don't
19 know what happened with the Gas Company. They says
20 you steal the gas. I said, What kind of proof they
21 have? She says, I don't know. She says, You have
22 to pay something because otherwise we'll disconnect

1 the gas.

2 A couple weeks later -- to me, sir
3 this is complete extortion. They send the paper
4 with disconnect. What I have to do? What I have to
5 do if they disconnect your gas? I says, Ma'am, I
6 have to pay something. She says, Credit card. I
7 give the Company credit card, paid 300 something
8 dollars.

9 Month later -- this is the day right
10 here (indicating).

11 Month later -- or 2 months later they
12 send same thing. I pay another 200 or 300 bucks.
13 You know what this Kathy says to me? If you don't
14 goddamn like this, we'll disconnect you and forget
15 it. This sad.

16 JUDGE RILEY: When --

17 MR. WITKOWSKI: Excuse me. Because there's only
18 one Nicor Gas in the city -- for this area? You
19 know really what happened. This is one company.
20 This is -- if you don't like it, forget it.

21 MRS. WITKOWSKI: That's okay.

22 JUDGE RILEY: I somehow wonder if there isn't

1 some sort of a connection between Nicor's suggested
2 that you diverted gas and the installation of the
3 new furnace, thermostat and water heater?

4 MR. PADRON: No.

5 MRS. WITKOWSKI: Yeah.

6 MR. WITKOWSKI: No.

7 JUDGE RILEY: Well, let me ask Mr. Padron.

8 What's Nicor's take on it?

9 MR. PADRON: In 2008 a neighbor of the
10 Witkowski's called in complaining of a gas leak,
11 they smelled gas. So we had a fields ops guy go out
12 to the site. They dug up the service line and they
13 found a T. They found that someone had implemented
14 this device to divert gas. The T then was running
15 into the foundation of the home -- they had a
16 regulator on it to reduce the pressure -- and was
17 servicing certain appliances.

18 So they took pictures of the
19 diversion. And they informed the Witkowskis that
20 they were going to have to pay for the gas that they
21 had stolen. And that's where the \$1400 that's owed
22 comes from.

1 Now, they can sit here and say all day
2 long they didn't steal gas. The only thing that we
3 know is that they live there and that when we got
4 out there and looked at the line, there was a gas
5 diversion mechanism on the line.

6 JUDGE RILEY: So something had tapped into the
7 line with another pipe --

8 MR. PADRON: Correct.

9 JUDGE RILEY: -- and that diverted -- and that
10 extra line that was tapped into the mainline went
11 into the house.

12 MR. PADRON: Correct.

13 JUDGE RILEY: And you say it had some kind of
14 device on there to reduce the pressure.

15 MR. PADRON: Right.

16 And this T, if you will, was installed
17 before the meter. So the gas that would normally
18 run through the meter and would be registered, you
19 know, how much was being used, this gas was going
20 around the meter, so it was not being --

21 JUDGE RILEY: Registered by the meter.

22 MR. PADRON: -- registered by the meter.

1 JUDGE RILEY: Now this was underground?

2 MR. PADRON: Correct.

3 JUDGE RILEY: So when you got the report of the
4 smell of gas, they went out and dug up the pipe.

5 MR. PADRON: That is correct.

6 JUDGE RILEY: And that's where they found the T.

7 MR. PADRON: That's where they found the T. And
8 they took pictures of everything.

9 The last thing I want to do is play
10 hardball and start having evidentiary hearings, but
11 I can bring in the field ops guy who was out there,
12 who dealt with Mr. Witkowski, who actually took the
13 photographs and who documented everything.

14 JUDGE RILEY: You said the Witkowskis saw this
15 also.

16 MR. PADRON: Correct. Correct.

17 MR. WITKOWSKI: That's not right. Nobody --

18 MR. PADRON: Well --

19 JUDGE RILEY: Only one person can speak. The
20 court reporter can only record one person at a time.

21 MRS. WITKOWSKI: Gas Company also call us and
22 said somebody was inside our house. Never --

1 MR. WITKOWSKI: Do I have proof --

2 JUDGE RILEY: Please. One person can speak at a

3 time.

4 MRS. WITKOWSKI: Okay. We never see nobody. We

5 never -- I don't know who was out- -- inside our

6 house.

7 JUDGE RILEY: Are you saying that neither of you

8 saw the ground dug up and nobody saw the pipe with

9 the --

10 MRS. WITKOWSKI: Absolutely.

11 JUDGE RILEY: -- diversion?

12 MR. WITKOWSKI: No.

13 MRS. WITKOWSKI: No. Absolutely.

14 JUDGE RILEY: And, yet, Nicor, it's your

15 position that they did see it?

16 MR. PADRON: Well, we have the photographs --

17 and Taria, please, if I misspeak at any point --

18 MS. DEES: No.

19 MR. PADRON: -- please -- we have the

20 photographs that were taken by the field ops guy who

21 found the diversion, who was responding to the

22 neighbor's call of gas in the air -- smelled gas in

1 the air.

2 And this gentleman, the field ops, a
3 Nicor employee, he took notes along with all the
4 photographs. He also filled out what's called a
5 Lost or Stolen Meter and Diversion Report. Okay.
6 And this is a standard procedure. Whenever there's
7 a call-in or a suspicion that there is a gas
8 diversion, they have to fill out one of these
9 reports.

10 And in the report he mentions that --
11 and again, Taria, tell me if I'm wrong -- but I
12 believe it was in this report where he said that the
13 customer was very upset over the fact that the crew
14 found and eliminated the diversion.

15 MR. WITKOWSKI: I don't even talk to the
16 gentleman.

17 JUDGE RILEY: How can the parties be this far
18 apart on the facts. This is what I find amazing.

19 Nicor is -- there's no doubt from
20 Nicor that they went out and dug up the pipe when
21 they got notice -- were notified of the smell of
22 gas, found the diversion --

1 MR. PADRON: Correct.

2 JUDGE RILEY: -- a renegade pipe tapped into the
3 mainline --

4 MR. PADRON: Right.

5 JUDGE RILEY: -- when that pipe was going back
6 into the house. And you say no such thing exists?

7 MR. WITKOWSKI: I never --

8 JUDGE RILEY: How could Nicor be that incorrect?

9 MR. WITKOWSKI: I never see. Why did Nicor lie
10 that somebody come into my home and check and see
11 the device with the pressure. How? I want to see
12 this -- I want to see the gentleman who come to our
13 home and checked the device? Why the Gas Company
14 lie?

15 JUDGE RILEY: And we're certain that this is at
16 433 South Greenwood Avenue --

17 MR. WITKOWSKI: Why the Company lie --

18 JUDGE RILEY: -- in Park Ridge, Illinois?

19 MR. PADRON: Yes.

20 MR. WITKOWSKI: I want to ask this gentleman,
21 Why the Company lie? When I talked to Scott and he
22 said, No. Some Mr. Smith inside the house and

1 checked your device. When? I want to proof. I
2 want to see the gentleman. First, I want to see the
3 picture exactly like this picture of my meter
4 (indicating), where they found device. When did
5 they find device? Where?

6 MR. PADRON: Again, if I may --

7 MR. WITKOWSKI: The Company make it anything
8 what they need. Like I showed to this letter
9 (indicating) -- why the Company don't say,
10 Mr. Witkowski -- they send a letter, Mr. Witkowski,
11 we find this device. You steal the gas. Why the
12 Company send the letter a month later and says,
13 Every month 200 extra dollars? Why? Would you
14 please explain me. Explain me, Mr. Padron?

15 MR. PADRON: Okay. First of all --

16 MR. WITKOWSKI: When you play with the --

17 MR. PADRON: Do you want me to answer your
18 question or not?

19 MR. WITKOWSKI: Yes, please.

20 MR. PADRON: I can't speak for any inner action
21 or communication you've had with previous Nicor
22 employees and if they were rude, I apologize. No

1 one should be treated like that. I don't --

2 MR. WITKOWSKI: Why -- excuse me --

3 MR. PADRON: -- care --

4 MR. WITKOWSKI: -- they have the conversation

5 because they have to have it record. I want to hear

6 this record. We go to court -- they send me letter.

7 Excuse me, sir, because this is all crazy. They

8 send me letter (indicating). They prove me -- this

9 is not an exhibit. They prove me they have

10 something. Never prove me. This is like she says,

11 he says.

12 How I trust this guys when they cheat

13 me with the meter and go and spray the meter?

14 MR. PADRON: Okay.

15 MR. WITKOWSKI: Let it go. Okay. Go ahead.

16 MR. PADRON: Okay. As I was saying, if anyone

17 was rude to you or disrespectful to you in any way,

18 I apologize on behalf of Nicor. No one should be

19 traeted that way. I don't care if they're diverting

20 gas or if they're not, it doesn't matter, no one

21 should be treated that way. I'm sorry. Okay.

22 I can't tell you what they did. I

1 can't tell you what they said to you. The only
2 thing that I can tell you is since you have filed
3 this formal ICC complaint I have been looking at the
4 documents that have been given to me. Okay? And
5 these documents include photographs of the gas
6 diversion. Okay? They include the report from the
7 field ops employee who was out there, who found the
8 diversion. Okay?

9 MR. WITKOWSKI: Do you have --

10 JUDGE RILEY: Please. Please.

11 Mr. Padron.

12 MR. PADRON: So I have these documents. I can
13 give them to you. As I said before, my position --
14 whenever I come to one of these ICC hearings, I
15 always want to hear your side and I want to come to
16 a resolution that makes sense. Okay? I don't want
17 anybody paying for gas they don't owe on, but at the
18 same time I don't want people walking away from gas
19 when they haven't paid or especially if they're
20 diverting. Okay?

21 So if we can't resolve this amongst
22 ourselves, the only thing I can do is, I can give

1 you the photographs. I can give you the report.

2 And I can bring in the actual Nicor field operations
3 employee who responded to the call of the gas leak,
4 who took the photographs and who made the report.

5 MRS. WITKOWSKI: Yeah, and who else inside we
6 want to know.

7 MR. PADRON: This whole inside thing, I'm not
8 sure what that has to do with anything. And I'm
9 not -- again, if it's something you want to discuss
10 we can. But as far as I'm concerned, the issue
11 that's at hand right now is this gas diversion and
12 the charge that we are assessing to you for the gas
13 diversion.

14 The gas diversion that -- the pictures
15 that I have and the report is all outside of the
16 home. Okay? So I don't know the relevance of any
17 sort of Nicor employee who was inside your home. I
18 don't know --

19 MRS. WITKOWSKI: They always say somebody was
20 inside. They checked something or switched
21 something, I don't know.

22 MR. WITKOWSKI: They check the switch and the

1 pressure valve. Is why I make a copy, this
2 picture (indicating) --

3 JUDGE RILEY: What was the actual date that
4 Nicor went out and dug up the lawn -- dug up the
5 ground.

6 MR. PADRON: November 2nd, 2008, was the day
7 that the gas leak call was made to Nicor. And that
8 was the day that the field ops employee went out to
9 433 South Greenwood in Park Ridge and found the
10 diversion.

11 He created the report, the Lost Stolen
12 Meter and the Diversion Report on the next day,
13 11-3-08.

14 JUDGE RILEY: We know then that this -- was this
15 in the backyard of 433 South Greenwood, do we know?

16 MR. PADRON: Judge, I don't know. I don't know.
17 It could have been to the side of the home. It
18 could have been in the back. I don't know.

19 JUDGE RILEY: But we know that the pipe was
20 going -- the row pipe was going to the home.

21 MR. PADRON: Correct.

22 We do know that the diversion itself

1 was going into the foundation of the home and it had
2 a regulator on it.

3 JUDGE RILEY: All right. Now, on November 2nd
4 was the actual date that the ground was dug up.

5 MR. PADRON: Correct. And that was the day the
6 pictures were taken.

7 JUDGE RILEY: Do we know what time of day?

8 MR. PADRON: I don't from the report. It's
9 possible that the photographs --

10 MS. DEES: We would have the information in the
11 system. So we can get that.

12 JUDGE RILEY: What I'm leading to then is, the
13 actual act of digging up, this wasn't done just by a
14 couple of individuals with shovels. I mean, there
15 would have been machinery out there, digging that
16 up, is that correct -- do you know by what mechanism
17 Nicor would have unearthed that pipe?

18 MR. PADRON: I honestly -- I don't know. It
19 looks from the photographs here, it could have been
20 hand dug. That would be a question for the field
21 ops guy.

22 JUDGE RILEY: But they would have to dig up not

1 just the main pipe but the full extent of the
2 diverted pipe, is that correct?

3 MR. PADRON: That's correct, yes.

4 They would have -- I mean,
5 obviously -- or I shouldn't say "obviously." I'm
6 making an educated guess that if they found the
7 actual diversion where the T was spliced into the
8 main and if they knew for a fact that it was running
9 into the foundation, then, yes, the entire diverted
10 row pipe, if you will, must have been dug up.

11 JUDGE RILEY: Now, I guess what I'm leading to
12 is to ask the Witkowskis, if this kind of activity
13 was going on directly on your property or even
14 adjacent to it, wouldn't you have known about it at
15 some point? How could you not have known about it?
16 Wouldn't the neighbors have told you? Wouldn't the
17 neighbors have --

18 MR. WITKOWSKI: Let me explain the story. They
19 start digging in the street first, not in our
20 property.

21 JUDGE RILEY: All right.

22 MR. WITKOWSKI: When I come home it be like -- I

1 don't know -- 3:00, 4:00 o'clock, see the Gas
2 Company across the street. They digging. And as I
3 start heating my dinner, there's no gas. I go
4 outside to this guy, I ask him what happened? He
5 says, We have gas leaking. What you mean you have
6 gas leaking? I don't have gas. He says, Well, we
7 have to check because some mainline something
8 happen.

9 MRS. WITKOWSKI: Across --

10 MR. WITKOWSKI: Yes, across the street.

11 An hour later the gentleman come and
12 says you have gas probably another 15, 20 minutes.
13 And maybe like half an hour I have gas. That's the
14 conversation with them.

15 JUDGE RILEY: So your gas was restored?

16 MR. WITKOWSKI: The gas, it shut off because
17 they said they have problem on the street.

18 JUDGE RILEY: Right.

19 MR. WITKOWSKI: Between my -- first across the
20 street on the gentleman, my neighbor, and then my
21 side. And I said, What happened? And he said, We
22 have leaking in the mainline. And the gentleman

1 come later, ring my doorbell and says, You have gas,
2 start the pilot or you want I start -- we start.
3 And I said, No, I have electronic and it's no
4 problem. That's the story.

5 I never hear anything. I even asked
6 him about this meter before. He said meter -- Your
7 meter okay. I says, We pay a lot of gas --

8 MRS. WITKOWSKI: All the time they say that.

9 MR. WITKOWSKI: He's the guy who do this. And
10 that's end. They dig behind my home? No.

11 MRS. WITKOWSKI: Never.

12 MR. WITKOWSKI: They dig something behind the
13 foundation? No. Because I have very big bushes,
14 pine bushes -- if you see in the picture, sir, I
15 show you (indicating), that means how they dig with
16 machine or something? This is the picture what I
17 make from the top -- this is the meter (indicating).

18 JUDGE RILEY: All right.

19 MR. WITKOWSKI: You see before.

20 JUDGE RILEY: Is that on the side of the house?

21 MR. WITKOWSKI: No, this is in the front of the
22 house.

1 JUDGE RILEY: Front of the house.

2 MR. WITKOWSKI: Yeah. Front of the house.

3 See, I make it picture inside the

4 basement too because they complain they see some

5 kind of device inside, some kind of pressure. I

6 say, Well -- you know, how they see when never come

7 in, you know. Welcome to come inside. Welcome.

8 Appreciate if -- Nicor don't come and any inspector

9 and check what happen inside. Nobody show up.

10 JUDGE RILEY: Let me ask Nicor then. Could the

11 T have been out on the street?

12 MR. PADRON: Not based on the report and based

13 on the photographs that we have, no. This was --

14 based on the photographs that I have here it looks

15 like it was right next to the home.

16 MR. WITKOWSKI: May I see this photograph?

17 MR. PADRON: Yeah, they're not -- I'll hand them

18 to you. What I'd like to do is, I'd like to get you

19 colored copies. I don't even have colored copies.

20 JUDGE RILEY: Those are photostatic copies of

21 photographs, right?

22 MR. PADRON: Yes, they are (indicating).

1 And I know we have colored copies,
2 right?

3 MS. DEES: Yeah, I'm sure they do. They're
4 there.

5 MRS. WITKOWSKI: Believe us, we never steal \$1
6 from Gas Company. Never. Never. I tell my husband
7 maybe something happened because next to our house
8 somebody build new house, maybe something -- I don't
9 think so --

10 MR. WITKOWSKI: Honestly, these pictures are
11 very bad. You don't know what is going on. You
12 don't have exact spot what they found. Nothing. To
13 me it's not really technical evidence to show this
14 is that somebody come into the house or something.

15 MR. PADRON: Again, my goal is to resolve any
16 issue. If we can't --

17 MR. WITKOWSKI: Offer us something. We pay
18 already 6 or 700 bucks.

19 MRS. WITKOWSKI: No, nothing.

20 MR. PADRON: Again, if I may, I'll get you
21 colored photographs. I mean, I'll let the Judge
22 handle this. But -- the only thing I have,

1 Mr. and Mrs. Witkowski, is this report and the
2 photographs and -- it's not that I don't believe
3 you, but what I'm saying is, the evidence that I'm
4 looking at is evidence that there was a gas
5 diversion.

6 JUDGE RILEY: Does the report say anything about
7 digging in the street first or does it just say it
8 was --

9 MR. PADRON: It says, Crew was called after
10 hours on weekend to above address for a Class 1 leak
11 that was leaking near the riser called in by
12 neighbor. Oscar Acindo (phonetic) dug up riser to
13 replace this three-quarter inch steel service that
14 was inserted with five-eighth PAC and found that a
15 saddle T was installed on the three-quarter inch
16 steel service with a half-inch galvanized piping
17 leading through the foundation and feeding
18 appliances. A reg was installed by customer to cut
19 pressure to a quarter pound. Customer was very
20 upset over the fact that crew found and eliminated
21 diversion. Saddle T was tapped out through a
22 three-quarter inch steel and pierced through the

1 five-eighth PAC.

2 MR. WITKOWSKI: That is not true. Mr. Padron,
3 nobody knows what is going on. Come on.

4 JUDGE RILEY: Again, I don't know how the
5 parties can be this far apart on the fundamental
6 fact that there was a T found -- a diverted pipe
7 found running into -- or next to the residence at
8 433 South Greenwood.

9 You say there's no such thing that
10 happened.

11 MR. WITKOWSKI: I don't see. I never see this
12 kind of thing (indicating).

13 JUDGE RILEY: This is the very evidence that --
14 among other things, that Nicor is going to --

15 MR. WITKOWSKI: This is not true.

16 JUDGE RILEY: -- produce if we go to hearing.
17 And I don't know --

18 MR. WITKOWSKI: How -- Judge, how do you believe
19 this thing if you live across the street and the
20 guys coming to your property and start digging and
21 put some pipe in this (indicating).

22 JUDGE RILEY: I can't make any comment on that

1 at all. All I can go by is the evidence that is
2 presented to me at a hearing.

3 MR. WITKOWSKI: They don't dig nothing behind my
4 home, positive, because of the bushes.

5 MRS. WITKOWSKI: Nothing. Nothing. If they
6 dig, we see it. Believe us.

7 JUDGE RILEY: That's what I'm wondering.

8 MRS. WITKOWSKI: Yeah, nobody, nobody was
9 inside. Nobody dig. Believe us. We don't have
10 problem -- you know, we always pay on time.

11 JUDGE RILEY: Sure.

12 MS. DEES: I just wanted to understand, when you
13 said that no one was digging, are you talking about
14 Nicor was never there and dug this up --

15 MRS. WITKOWSKI: Uh-hum. Yeah.

16 MS. DEES: -- or that nobody ever put it in.

17 MRS. WITKOWSKI: Yeah, no.

18 MR. WITKOWSKI: Nobody --

19 MS. DEES: Are you talking about Nicor was never
20 out there --

21 MR. WITKOWSKI: Never dig behind the house.

22 MRS. WITKOWSKI: No.

1 MS. DEES: Okay.

2 MR. WITKOWSKI: Just dig on the street.

3 MRS. WITKOWSKI: Absolutely.

4 MR. WITKOWSKI: How come -- ma'am, it's normal
5 Nicor Company, do I (sic) come in with the shovel
6 and dig the street. This is Park Ridge. It means,
7 Village stop you, inspector saying, Hey, what are
8 you doing here? And you install some kind of device
9 for three feet below? Come on, this nonsense. To
10 me it's a big nonsense.

11 Anyway, we pay 600 from 1400, we have
12 700.48. I believe we pay too much. If Nicor what
13 to go even, I know we lost money, but next time -- I
14 don't know, honestly.

15 JUDGE RILEY: The answer to this may be very
16 obvious, but I have to ask the question. Is it
17 correct to say that there is no hope of any kind of
18 an accord to be reached here, any kind of a
19 settlement?

20 Is it the Witkowskis' position that
21 they flatly deny that there was any diversion of
22 natural gas going into the home at 433 South

1 Greenwood?

2 MR. WITKOWSKI: Yes, sir.

3 MRS. WITKOWSKI: Yes.

4 MR. WITKOWSKI: And like I says, how Nicor the
5 proof, they have to have tangible evidence, that
6 means, picture of house -- because this picture in
7 any court you don't -- any court don't believe --

8 JUDGE RILEY: I can't make any comment on that.

9 MR. WITKOWSKI: Okay. I understand. Because
10 this picture what I have is completely different.
11 How they show the picture that means -- this is the
12 house, we dig right here, this pipe go to the
13 foundation, this kind of pipe, you have this kind of
14 evidence I believe the court says, Yes, you steal
15 the gas, you pay for everything.

16 MRS. WITKOWSKI: Absolutely.

17 MR. WITKOWSKI: Otherwise it's very
18 controversial thing.

19 JUDGE RILEY: Is there anyway to tell from the
20 photos or from the witness who did the digging how
21 long ago this may have occurred?

22 MR. PADRON: This is an interesting question,

1 your Honor. And I don't have the exact answer for
2 you. I know that there is some relevance -- or
3 there is something there with the fact that the
4 saddle T pierced both the steel -- the three-quarter
5 inch steel pipe as well as the five-eighths PAC.

6 Taria was trying to explain it to me.
7 I would need to speak to the field ops guy. But
8 because it pierced both lines, the steel and the
9 plastic, there's something about that fact which
10 should have some bearing on when the device was
11 installed.

12 MS. DEES: Because it started out with steel
13 pipe and at some point in time it was replaced with
14 the PAC, which was actually just put inside. So it
15 was sometime after it was replaced with the PAC and
16 we can find that -- find out when that happened.

17 MR. PADRON: So, I mean, we don't want to assume
18 anything, but from what it sounds like from our
19 understanding, so, essentially, you have a steel
20 pipe on the outside and then on the inside you have
21 the smaller plastic and that was installed in '82?

22 MS. DEES: The steel was installed in '82. The

1 PAC was sometime after that.

2 MR. PADRON: Okay. So -- and it pierced both.

3 So it was sometime after '82.

4 JUDGE RILEY: Under any circumstances, the
5 person who actually did this diversion then would
6 have to be very knowledgeable about the materials
7 and how to tap that line.

8 MR. PADRON: It is, your Honor.

9 This is another thing, again, I don't
10 want to assume anything, but according to some notes
11 here it says that Mr. Witkowski is a pipe layer.

12 Is that correct?

13 MR. WITKOWSKI: No.

14 MR. PADRON: No, you're not.

15 What do you do for a living?

16 MR. WITKOWSKI: Painting contractor. Painter.

17 MR. PADRON: You're a painter contractor. I
18 don't know where we got that bit of information, but
19 regardless -- regardless -- yes, whoever installed
20 this diversion, especially given that there was a
21 regulator on there, they knew what they were doing
22 or it would seem that they knew what they were

1 doing.

2 JUDGE RILEY: What do you have there that says
3 that Mr. Witkowski was a pipe layer?

4 MR. PADRON: Again, this is -- when an ICC
5 formal is filed I get a brief account summary. It
6 says here, On November 17th, 2009, Mr. Witkowski was
7 speaking with one of our supervisors -- I don't know
8 if that would be Amy or --

9 MS. DEES: That would have been the Call Center.
10 It was not to us yet.

11 MR. PADRON: And it just says here, He said he
12 never did anything with the meter, but he said that
13 he is a pipe layer.

14 MR. WITKOWSKI: No.

15 JUDGE RILEY: And you have never been a pipe
16 layer?

17 MR. WITKOWSKI: Never in my life.

18 JUDGE RILEY: Never been employed in any
19 capacity?

20 MR. WITKOWSKI: Never.

21 JUDGE RILEY: Never been trained as a pipe
22 layer?

1 MR. WITKOWSKI: Never.

2 MR. PADRON: So again, Judge, the only thing I
3 can do is I can provide the Witkowskis with colored
4 photographs and if they want an affidavit or
5 something from the -- you know, I'll give them a
6 copy of the report. If they want an affidavit from
7 the actual field ops guy who created this report, I
8 have no problem doing that. And if it needs to come
9 down to an evidentiary hearing, we'll do that.

10 The point is is that I can only work
11 with -- and I'm not trying to --

12 MRS. WITKOWSKI: It's your job.

13 MR. PADRON: -- say that -- yeah -- all I can do
14 is work with what's given to me and that's the
15 photographs and this report saying that there was a
16 gas diversion on your line.

17 JUDGE RILEY: How long have you owned the home?

18 MR. WITKOWSKI: 20- --

19 MRS. WITKOWSKI: 22.

20 MR. WITKOWSKI: 22.

21 JUDGE RILEY: 22 years.

22 MRS. WITKOWSKI: Yeah.

1 JUDGE RILEY: So that would go back to about
2 198- --
3 MR. WITKOWSKI: 1987.
4 JUDGE RILEY: -- 1987. Okay.
5 MR. WITKOWSKI: I never have problem.
6 MRS. WITKOWSKI: Never.
7 MR. WITKOWSKI: Never --
8 MRS. WITKOWSKI: With other bills, never.
9 MR. WITKOWSKI: We pay too much bill. We change
10 the furnace and bills still don't go down. I argue
11 always with them because small house, geez, 300 in
12 winter. Come on.
13 MRS. WITKOWSKI: Small house.
14 MR. WITKOWSKI: Excuse me. One lady told me,
15 Change the heater. Ma'am, I just changed heater,
16 high efficient. That means, You do wrong. I don't
17 know how the contractor do. Come on.
18 JUDGE RILEY: Well, I'm not sure where we go
19 from here other than to hearing and if we do go to
20 hearing what will we go to hearing on? You're
21 contesting the bill. You're contesting the
22 accusation that you diverted -- that there's a gas

1 diversion. And I think from what I've seen here
2 Nicor is going to come in with a wealth of evidence
3 to establish that there was a diversion.

4 You're certainly entitled to your day
5 in court, that would be the next step, if you're not
6 willing to come to some kind of accord with Nicor.

7 And, Nicor --

8 MR. PADRON: Absolutely.

9 JUDGE RILEY: -- I don't want to commit you
10 without your permission, but --

11 MR. PADRON: No, I would absolutely -- I'm
12 always willing to negotiate and settle this for all
13 of our sakes. I don't want to waste the Judge's
14 time, your time, my time --

15 MR. WITKOWSKI: Of course.

16 MRS. WITKOWSKI: Yeah.

17 JUDGE RILEY: Would you be amenable to talking
18 with Nicor now to see if there's some resolution
19 that can be reached?

20 MRS. WITKOWSKI: Of course.

21 JUDGE RILEY: And I can step out of the way.

22 MR. PADRON: Sure.

1 JUDGE RILEY: All right. Let's go off the
2 record.

3 (Whereupon, a discussion
4 was had off the record.)

5 JUDGE RILEY: Back on the record.

6 MR. PADRON: Your Honor, if it's acceptable,
7 what I propose and what they've agreed to do is, I
8 suggested to meet with the technician who -- the
9 employee from Nicor who was out there, who took the
10 picture, who made this report and see what he has to
11 say.

12 And then at that point I'm going to
13 provide the Witkowskis with the report. And I'm
14 going to try to get colored pictures of the pictures
15 that were taken and provide them to the Witkowskis
16 as well.

17 And then after I've spoken to the
18 field technician we'll see if we can work it out
19 and if we can't, then we'll proceed to an
20 evidentiary hearing.

21 JUDGE RILEY: So what we need is another date --

22 MR. PADRON: What we need is another date.

1 JUDGE RILEY: -- for status.

2 MR. PADRON: That's correct.

3 JUDGE RILEY: Is that acceptable to the
4 Witkowskis?

5 MR. WITKOWSKI: Yes.

6 MRS. WITKOWSKI: Yes.

7 JUDGE RILEY: Today is the 15th --

8 MR. PADRON: How about -- you know what, your
9 Honor -- I'm going to be back here, Judge -- on
10 March 16th I'm going to be back here for another ICC
11 matter at 11:00.

12 MRS. WITKOWSKI: What day --

13 MR. PADRON: It is a Wednesday.

14 MRS. WITKOWSKI: Oh, Wednesday is not good for
15 me.

16 MR. WITKOWSKI: Wednesday, but have to be early
17 in the morning, like 10:00.

18 JUDGE RILEY: 10:00 a.m.?

19 MR. PADRON: 10:00 is fine.

20 JUDGE RILEY: You're going to be here --

21 MRS. WITKOWSKI: That okay, then 10:00.

22 JUDGE RILEY: -- for an 11:00.

1 MR. WITKOWSKI: 10:00 Wednesday.
2 MRS. WITKOWSKI: 10:00 is okay.
3 MR. PADRON: Great.
4 JUDGE RILEY: That will be for a status.
5 MR. PADRON: Correct.
6 JUDGE RILEY: So we will not be going to hearing
7 on that date.
8 We should have a much clearer picture
9 of where everyone stands.
10 MR. PADRON: Yes. Absolutely.
11 JUDGE RILEY: And this is all satisfactory,
12 we'll reconvene on the 16th at 10:00 a.m.?
13 MR. WITKOWSKI: Yes.
14 MRS. WITKOWSKI: Yes.
15 JUDGE RILEY: Then I'll leave it at that. We
16 will recess now and we will reconvene on March 16 at
17 10:00 a.m. and that will be for a status. I'll have
18 notice of that sent.
19 MRS. WITKOWSKI: Thank you.
20 (Whereupon, the above-entitled
21 matter was continued to
22 March 16, 2011, 10:00 a.m.)